

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STEVEN WAYNE BONILLA,

Plaintiff,

v.

JAMES LOPEY, et al.,

Defendants.

Case No. [16-cv-04426-VC](#) (PR)

**ORDER DISMISSING COMPLAINT  
WITH PREJUDICE**

Plaintiff Steven Wayne Bonilla is a state prisoner who has filed a *pro se* complaint under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, against the Washoe County Sheriff’s Office in the State of Nevada and Washoe County Sheriff’s Sergeant James Lopey.<sup>1</sup> Bonilla has been disqualified from proceeding *in forma pauperis* under 28 U.S.C. § 1915(g) unless he is “under imminent danger of serious physical injury” at the time he filed his complaint. 28 U.S.C. 1915(g); *In re Steven Bonilla*, No. C 11-3180 CW (PR); *Bonilla v. Dawson*, No. C 13-0951 CW (PR).

The allegations in this complaint do not show that Bonilla was in imminent danger at the time of filing. Therefore, he may not proceed *in forma pauperis*. Furthermore, he may not proceed even if he pays the filing fee because FOIA applies only to agencies of the executive branch of the federal government, not to state agencies. *See St. Michael’s Convalescent Hosp. v. California*, 643 F.2d 1369, 1373 (9th Cir. 1981). Furthermore, the relief Plaintiff seeks pertains to his ongoing attempts to invalidate his conviction. Therefore, such claims, if raised, must be

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<sup>1</sup> This civil case was incorrectly labelled on the Court docket as a petition for a writ of mandamus. The Clerk is directed to correct this error.

brought by Bonilla's counsel in his pending federal habeas corpus action, *Bonilla v. Ayers*, No. C 08-0471 YGR (PR).

Accordingly, this complaint is dismissed with prejudice. The Clerk of the Court shall enter a separate judgment and close the file.

**IT IS SO ORDERED.**

Dated: August 18, 2016

A handwritten signature in black ink, appearing to read 'VCH', is positioned above a horizontal line.

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VINCE CHHABRIA  
United States District Judge